



Paper No. 7

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OFFICE OF PETITIONS

In re Application of
Trost, Ibrahim & Mikhak
Application No.: 09/788,061
Filed: February 16, 2001
Attorney Docket No.: 41524/CAG/B600
For: BLUETOOTH BASEBAND SOLUTION
WITH REDUCED PROCESSOR
REQUIREMENTS AND INTEGRATED HOST
CONTROLLER

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 5, 2001 .

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 16, 2001 without an executed oath or declaration. Accordingly, on April 27, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing and substitute drawings.

In response, on October 5, 2001 (certificate of mailing date September 26, 2001), a petition for a three month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, substitute drawings, the petition fee, and the instant petition were filed. A declaration of facts of D. Bruce Prout and Christopher C. Winslade, attorneys for a corporation in interest, accompanied the petition. Messrs. Prout and Winslade explain that the attorney representing non-signing joint inventor Alahyar Alan Mikhak received a copy of the application and a declaration for the above-identified application, but Mr. Mikhak did not respond to the time sensitive request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that the inventor refused to sign the declaration. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). In this instance, Exhibit C to the declaration of Christopher C. Winslade establishes that Inventor Mikhak's representative was mailed a declaration that does not make any reference to the identity of the other joint inventors. The Exhibit C declaration is not identical to the declaration filed on October 5, 2001 (certificate of mailing date September 26, 2001) listed 3 inventors.

Petitioners must mail Inventor Mikhak's representative a copy of the declaration, as filed with the Office. The Declaration presented to the non-signing inventor must include all of the joint inventors in order to ensure that the non-signing inventor is aware of the identity of the other named inventors of the subject matter. See 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



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for Patent Examination Policy